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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,815	10/21/2005	Sumit Roy	3651-1025	6741

466 7590 08/09/2007  
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EXAMINER
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SONNETT, KATHLEEN C

ART UNIT	PAPER NUMBER
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3731

MAIL DATE	DELIVERY MODE
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08/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

ED

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,815	<b>Applicant(s)</b> ROY ET AL.	
	<b>Examiner</b> Kathleen Sonnett	<b>Art Unit</b> 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-30, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-30, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/25/2007 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to claim 20 have been considered. As discussed in more detail below, the addition of the limitation "the longitudinal cross-section of the second element is uniformly thick" is not supported by the instant specification. It appears to the examiner that Applicant intends to include the limitation that the material making up the second element is uniformly thick. Such a limitation differentiates Applicant's invention from the invention of Berreklouw (6,524,322) in view of Bolduc (U.S. 6,193,734) (as explained in the previous office action mailed 2/23/2007) since Bolduc teaches a first element which pushes against a projecting portion of the second element in order to change the configuration of the second element which constitutes a region of increased thickness in the material of the second element. For the purposes of the art rejection, the examiner has applied art that includes a second element which has a uniformly thick longitudinal cross-section as well as being made of a uniformly thick material.

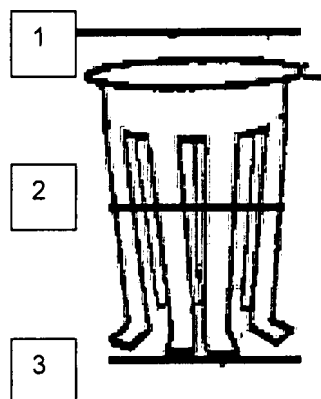
***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 20-30, 33, and 34** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claim 20 includes the limitation that the longitudinal cross-section of the second element is uniformly thick. However, this is not disclosed in either the drawings or the instant specification. Taking a cross section through the second element, for example in the plane of the paper so that half of the tubular element is in front of the plane of the paper and half is behind the plane of the paper, three lines at three different sections designate the thickness of the longitudinal cross section. Note that these dimensions are not uniform. Even when the finger portions are straightened out by the introduction of the first element within the second element, the gripping portions of the fingers will give the second element a greater longitudinal cross-section at the very distal end.



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5. It appears to the examiner that Applicant intends to include the limitation that the material making up the second element is uniformly thick. Please see the objection to the specification below.

***Specification***

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: if applicant intends to add the limitation that the material of the second element is uniformly thick (see 35 U.S.C. 112 1<sup>st</sup> paragraph rejection above), antecedent basis must be provided in the specification. Although the pictures appear to show that the thickness of the material of the second element is uniform, antecedent basis must be provided in the specification.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 20, 33, and 34** are rejected under 35 U.S.C. 102(b) as being anticipated by Leigh-Monstevens et al. (U.S. 5,716,081). Leigh-Monstevens discloses a device for interconnection of first and second organs comprising a first element (46) with an axially through-going first passage along a first longitudinal axis, a first front end portion, a first front edge, a first rear end portion and a first rear edge, a second element (138) with an axially

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through-going second passage along a second longitudinal axis, a second rear end portion or receiving portion, and a second front portion. Looking at the second element in fig. 5, if a longitudinal cross-section is taken that passes through two finger portions 138b (straight fingers), the longitudinal cross-section of the second element is uniformly thick. It is also noted that the thickness of the material forming the second element is uniformly thick (see fig. 5 and col. 5, ll. 34-40). The second front portion is provided with at least two elongated first fingers (138d) which are arranged at intervals along the circumference of the first passage and each of the fingers is comprised of a main portion (138e) extending from the second front portion and in the direction of the second longitudinal axis, the main portion is continuous with a gripping part (138f), wherein the gripping part is directed away from the second longitudinal axis (once the first element begins to straighten portions (138e)) such that introduction of the first element into the second element displaces the main portions of the fingers radially outwards.

9. Regarding claim 33, the fingers (138d) gradually progressively incline radially inwardly of the second element.

10. Regarding claim 34, see col. 5, ll. 52-67.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Sonnett whose telephone number is 571-272-5576. The examiner can normally be reached on 7:30-5:00, M-F, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCS 7/31/2007

  
GLENN K. DAWSON  
PRIMARY EXAMINER